



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R07-OAR-2017-0349; FRL-9983-68-Region 7]**

**Approval of Missouri Air Quality Implementation Plans;**

**Redesignation of the Missouri Portion of the St. Louis-St.**

**Charles-Farmington, MO-IL 2008 Ozone Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to redesignate the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL nonattainment area ("St. Louis area" or "area") to attainment for the 2008 ozone National Ambient Air Quality Standard (NAAQS). EPA is also approving, as a revision to the Missouri State Implementation Plan (SIP), the state's plan for maintaining the 2008 8-hour ozone NAAQS through 2030. Finally, EPA finds adequate and is approving, as a SIP revision, the State's 2030 volatile organic compound (VOC) and oxides of nitrogen (NO<sub>x</sub>) Motor Vehicle Emission Budgets (MVEBs) for the Missouri portion of the St. Louis area. The Missouri Department of Natural Resources (MDNR) submitted this request on September 12, 2016, with a supplemental submission on February

16, 2018. EPA addressed the Illinois portion of the St. Louis area in a separate rulemaking action published in the **Federal Register** on March 1, 2018.

**DATES:** This final rule is effective on **[Insert Date of Publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2017-0349. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7214, or by email at [kemp.lachala@epa.gov](mailto:kemp.lachala@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA. This section provides additional

information by addressing the following:

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### **I. What is Being Addressed in this Document?**

This final rulemaking takes final action on submissions from MDNR dated September 12, 2016, and supplemented on February 16, 2018, requesting redesignation of the Missouri portion of the St. Louis area attainment for the 2008 ozone NAAQS. The background for this action is discussed in detail in EPA's proposed rulemaking published in the **Federal Register** on June 25, 2018 (83 FR 29486). In that proposed rulemaking we noted, under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the three-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm at all of the ozone monitoring sites in the area. See 40 CFR 50.15 and appendix P to 40 CFR part 50. Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard

and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule provides a detailed discussion of how Missouri has met these CAA requirements.

As discussed in the June 25, 2018, proposal, quality-assured and certified monitoring data for 2013-2015 show that the St. Louis area has attained the 2008 ozone standard. In the maintenance plan submitted for the area, Missouri has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Missouri adopted 2030 MVEBs for its portion of the St. Louis area that are adequate and supported by MDNR's maintenance demonstration.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state's submission has met the public notice requirements for the redesignation request and maintenance plan submission in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state held a public comment period from June 27, 2016, to August 4, 2016, and received six comments from three commenters. A public hearing was held on July 28, 2016.

### **III. EPA's Response to Comments**

EPA provided a thirty-day review and comment period for the June 25, 2018 proposed rule. The comment period ended on July 25, 2018. EPA received three sets of comments, specifically adverse comments from the Missouri Department of Natural Resources (MDNR) and the Sierra Club. Full sets of these comments are provided in the docket for this final action. A summary of the adverse comments and EPA's responses are provided below.

Comment: The commenter stated that Missouri's most recent monitoring network plan was approved in 2017, as also stated in the proposal. However, a footnote in the proposal references the 2016 monitoring network plan and the state's commitment to verified attainment. The commenter is requesting the footnote reference be changed to reflect the most recent approved plan.

EPA's Response: EPA agrees with the commenter that the most recent monitoring network plan was approved on December 19, 2017, and Missouri has committed to monitoring air quality for verification of continued attainment. In this final rulemaking notice, we clarify that the monitoring network plan used for verification of continued attainment is the plan approved by EPA on December 19, 2017.

Comment: The commenter requested clarification on the source of the 2014 attainment inventory data, since the proposal states that data for the 2014 attainment inventory was not interpolated between the 2011 and 2018 Ozone NAAQS Emissions Modeling platform inventories, because EPA's National Emissions Inventory (NEI) was unavailable at the time of the redesignation request.

EPA's Response: EPA agrees with the commenter that the Agency's 2014 NEI was not available at the time Missouri submitted its request for redesignation. EPA also agrees that Missouri did not interpolate data between 2011 and 2018 to create inventories for 2014. The state used Missouri-specific 2014 emissions data for the 2014 attainment year. As indicated in the proposal both NO<sub>x</sub> and VOC emissions decreased from the base year to the attainment year and helps adequately demonstrate that improvement in air quality is due to permanent and enforceable emission reductions.

Comment: The commenter stated that EPA should not take final action to approve the redesignation of the St. Louis area to attainment because the state's data indicate most monitoring sites in the nonattainment area have exceeded the 2008 ozone NAAQS in just the first half of the 2018 ozone season, and that past improvements cannot be reasonably attributed to permanent and enforceable reductions in emissions because of regular

exceedances of the 2008 NAAQS at monitoring sites.

EPA's Response: Section 107(d)(3)(E) of the CAA allows redesignation of a nonattainment area to attainment of the NAAQS provided that: (1) The Administrator determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

Specifically, the CAA section 107(d)(3)(E)(i) requires EPA to determine that the area has attained the applicable NAAQS. An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality assured air quality data for all



monitoring sites in the area. To attain the NAAQS, the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. EPA disagrees with the commenter that final action should not be taken to redesignate the St. Louis area due to data indicating exceedances at monitoring sites in the area.

EPA's proposed rulemaking was based on quality assured data from 2013-2015 which demonstrated that the St. Louis area is attaining the 2008 ozone NAAQS. In addition, 2014-2016 and 2015-2017 data confirm that the area continues to attain that NAAQS. EPA's ozone season runs from March-October and data collected thus far in 2018 has yet to be quality assured or certified by the state. Individual readings at air quality monitors that exceed the level of the NAAQS do not mean that an area is no longer attaining the NAAQS. In part because ozone concentrations are influenced by meteorology and subject to variable conditions, attainment of the 2008 ozone NAAQS is measured using the three-year average design value at all monitoring sites in the area. Moreover, as stated in the proposal, the St. Louis area has also shown a decrease in both NO<sub>x</sub> and VOC emissions which indicates that improvement in air quality is due to

permanent and enforceable emission reductions, rather than temporary conditions.

#### **IV. What Action is EPA Taking?**

EPA has determined that the Missouri portion of the St. Louis nonattainment area is attaining the 2008 ozone standard based on quality-assured and certified monitoring data for 2013-2015 and that the Missouri portion of the St. Louis area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

EPA is thus approving the state's request to change the designation of the Missouri portion of the St. Louis area for the 2008 ozone standard from nonattainment to attainment. EPA is also approving, as a revision to the Missouri SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Missouri portion of the St. Louis area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established 2030 MVEBs for the Missouri portion of the St. Louis area.

EPA has determined that these actions are effective immediately upon publication under the authority of 5 U.S.C. 553(d). The purpose of the thirty-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Section 553(d)(1) allows an effective date less than

thirty days after publication if a substantive rule "relieves a restriction." These actions qualify for the exception under section 553(d) (1) because they relieve the State of various requirements for the Area. Furthermore, section 553(d) (3) allows an effective date less than thirty days after publication "as otherwise provided by the agency for good cause found and published with the rule." EPA finds good cause to make these actions effective immediately pursuant to section 553(d) (3) because they do not create any new regulatory requirements such that affected parties would need time to prepare before the actions take effect.

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States.

EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects**

**40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Nitrogen dioxide, Ozone, Volatile organic compounds.

**40 CFR Part 81**

Environmental protection, Administrative practice and  
procedure, Air pollution control, Designations and  
classifications, Intergovernmental relations, Nitrogen dioxide,  
Ozone, Reporting and recordkeeping requirements, Volatile  
organic compounds.

Dated: September 13, 2018.

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James B. Gulliford,  
Regional Administrator,  
Region 7.



For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 81 as set forth below:

**Part 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart-AA Missouri**

2. Amend §52.1342 by adding paragraph (e) to read as follows:

**§ 52.1342 Control strategy: Ozone.**

\* \* \* \* \*

(e) Redesignation to attainment. On September 12, 2016, and February 16, 2018, Missouri submitted requests to redesignate the its portion of the St. Louis MO-IL area to attainment of the 2008 ozone standard. The Missouri portion of the St. Louis MO-IL area includes Jefferson, Franklin, St. Charles, and St. Louis Counties along with the City of St. Louis. As part of the redesignation request, the State submitted a plan for maintaining the 2008 ozone standard through 2030 in the area as required by section 175A of the Clean Air Act.

**Part 81 -- DESIGNATION OF AREAS FOR AIR QUALITY PLANNING**

**PURPOSES**

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

**Subpart C - Section 107 Attainment Status Designations**

4. Section 81.326 is amended by revising the entry for "St. Louis-St. Charles-Farmington, MO-IL" in the table entitled "Missouri-2008 8-Hour Ozone NAAQS (Primary and Secondary)" to read as follows:

**§ 81.326 Missouri.**

\* \* \* \* \*

MISSOURI-2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
St. Louis-St. Charles-Farmington, MO-IL <sup>2</sup> :				
Franklin County	[Insert <u>Federal Register</u> date of publication date]	Attainment		
Jefferson County	[Insert <u>Federal Register</u> date of publication date]	Attainment		
St. Charles County	[Insert <u>Federal Register</u> date of publication date]	Attainment		
St. Louis County	[Insert <u>Federal Register</u> date of publication date]	Attainment		
St. Louis City	[Insert <u>Federal Register</u> date of publication date]	Attainment		
* * * * *				

<sup>1</sup>This date is July 20, 2012, unless otherwise noted.

<sup>2</sup>Excludes Indian country located in each area, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 2018-20326 Filed: 9/19/2018 8:45 am; Publication Date: 9/20/2018]